

KENJI M. PRICE #10523  
United States Attorney  
District of Hawaii

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII  
**Jun 05, 2020**  
LIAN ABERNATHY, CLERK

MICHAEL ALBANESE #9421  
Assistant U.S. Attorney  
United States Attorney's Office  
District of Hawaii  
Room 6-100, PJKK Federal Building  
300 Ala Moana Boulevard  
Honolulu, Hawaii 96850  
Telephone: (808) 541-2850  
Email: Michael.albanese@usdoj.gov

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	MAG. NO. 20-00625 WRP
	)	
Plaintiff,	)	CRIMINAL COMPLAINT;
	)	AFFIDAVIT IN SUPPORT OF
v.	)	CRIMINAL COMPLAINT
	)	
DAVID MYERS,	)	
	)	
	)	
Defendant.	)	
	)	

---

**CRIMINAL COMPLAINT**

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

Possession of Ammunition By a Prohibited Person (Prior Felony)  
(18 U.S.C. § 922(g)(1))

On or about June 3, 2020, within the District of Hawaii, DAVID MYERS, the defendant, knowing that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess ammunition, namely over 300 rounds of 9 mm ammunition, said ammunition having been shipped and transported in interstate commerce.

All in violation of Title 18, United States Code, Section 922(g)(1).

//

//

//

//

//

//

//

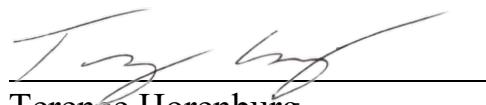
//

//

//

I further state that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), and that this Complaint is based upon the facts set forth in the attached “Affidavit in Support of Criminal Complaint,” which is incorporated herein by reference.

DATED: June 5, 2020, at Honolulu, Hawaii.



\_\_\_\_\_  
Terence Horenburg  
Special Agent, ATF

This Criminal Complaint and Affidavit in support thereof were presented to, approved by, and probable cause to believe that the defendant above-named committed the charged crime found to exist by the undersigned Judicial Officer at 11:16 a.m. on June 5, 2020.

Sworn to under oath before me telephonically, and attestation acknowledged pursuant to Federal Rule of Criminal Procedure 4.1(b)(2), on this 5th day of June, 2020, at Honolulu, Hawaii.



\_\_\_\_\_  
Wes Reber Porter  
United States Magistrate Judge

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Terence Horenburg, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

**INTRODUCTION AND AGENT BACKGROUND**

1. This affidavit is submitted for the purpose of establishing probable cause that on and about June 3, 2020, within the District of Hawaii, DAVID MYERS, the defendant, engaged in conduct that violated 18 U.S.C. § 922(g)(1).

2. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), and have been since August 2001. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy. I have been a criminal investigator for approximately 18 years and have been involved in numerous federal investigations. These investigations have resulted in the collection of evidence in cases involving federal firearm violations.

3. I am familiar with the facts set forth in this affidavit based upon my personal knowledge and/or information provided to me by other law enforcement personnel and/or witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the criminal complaint charging the defendant with violations of federal law. Accordingly, this affidavit does not set forth all of the facts known to me or to ATF regarding this matter. Summaries and statements from conversations do not include references to all topics covered in the conversations.

**PROBABLE CAUSE**

4. On June 3, 2020, a Hawaii County Police Department (“HCPD”) Officer responded to the Eden Roc Subdivision for multiple calls of shots fired from a motor vehicle. The HCPD officer contacted a witness (herein referred to as “WITNESS #1”), who stated that on June 3, 2020, he/she was traveling southeast on Ohia Avenue when he/she noticed a small white sports utility vehicle stopped along the right side of the roadway. WITNESS #1 stated that as he/she passed the vehicle he heard what he believed to be a gunshot coming from the vehicle. WITNESS #1 related he/she traveled approximately 100 feet when he looked back towards the intersection of Ohia Avenue and observed the vehicle stop on the roadway. The male driver pointed the barrel of a handgun out of the driver’s side window towards WITNESS #1 and discharged two (2) rounds before continuing southeast on Ohia Avenue. HCPD officers examined the area that WITNESS #1 described and recovered two (2) spent casings from the intersection of Ohia Avenue and 11th Road.

5. The same officer contacted a second witness (herein referred to as “WITNESS #2”), who related that he/she observed a male individual in operation of a white Toyota Rav 4 on Ohia Avenue and he/she observed the individual fire one gunshot in the air.

6. Another HCPD officer contacted a third witness (herein referred to as “WITNESS #3”), who stated that he/she was traveling home on South Kopua Road with two other individuals when their vehicle was overtaken by a white in color

Toyota SUV that was being operated by a local male, later identified as David MYERS. WITNESS #3 noted the license plate of the SUV to be ZDP726. WITNESS #3 stated that the SUV overtook two other cars that was in the back and then overtook them. As the SUV passed them, MYERS showed them the "bird" and pulled in front of them. WITNESS #3 further related that the white SUV began swerving from side to side in the middle of the roadway to prevent them from overtaking, then came to a complete stop in the middle of the roadway just before the right hand turn of the "Y" intersection of South Kopua Road and Wai Maka o Pele Road. MYERS then got out of the Toyota SUV, and the parties engaged in a brief verbal argument.

7. WITNESS #3 reported that MYERS then re-entered his SUV, moved it to the right-hand shoulder of the roadway, and while seated in the driver's seat waved at them as to go pass him. WITNESS #3 stated that he/she observed MYERS' right hand resting on the driver's side door windowsill pointing the barrel of a handgun at them as they passed. WITNESS #3 and the two other individuals drove away and then called 911 to report the incident.

8. Witness #2 and Witness #3 later observed MYERS in police custody and identified MYERS as the driver of the Toyota SUV described above.

9. A police records check of the license plate on the suspect vehicle, ZDP726, indicated the Toyota Rav4 SUV is registered to MYERS with a physical address in Mountain View, Hawaii.

10. Another HCPD officer made contact with MYERS at the address registered to the Toyota SUV. MYERS admitted that he owns a white Toyota RAV 4 and that located in the back of the property. MYERS gave verbal consent for the officer to enter the property to look at the vehicle. Upon locating the Toyota, HCPD officers observed a handgun on the front passenger seat along with several spent shell casings.

11. On June 4, 2020, a State of Hawaii search warrant was executed on MYERS' residence and vehicle. HPD officers recovered, among other things, the following items:

- a. A Privately Made Firearm (PMF), Model PF940C, 9mm caliber, containing no serial number, from the passenger seat of the Toyota;
- b. Three (3) boxes of Blazer 9mm Ammunition containing fifty (50) rounds, from in a dresser in the residence;
- c. One (1) box of Blazer 9mm Ammunition containing thirty-six (36) rounds, from in a dresser in the residence;
- d. Three (3) boxes of UMC Remington 9mm ammunition containing fifty (50) rounds, from a dresser in the residence;
- e. A wallet containing Hawaii State ID for MYERS, from inside the Toyota;
- f. Five (5) spent Blazer 9mm cartridge casings, with headstamp BLAZER 9mm LUGER, from the passenger seat of the Toyota;

g. Numerous rounds of 9mm ammunition; from various locations in the

Toyota;

h. Numerous spent 9mm cartridge casings; from various locations in the

Toyota;

12. On June 4, 2020, ATF Special Agent Christopher Tuitele examined photographs of the ammunition recovered from the residence and the five (5) spent Blazer 9mm cartridge casings, with headstamp BLAZER 9mm LUGER, from the passenger seat of the Toyota and determined based on his specialized interstate nexus training and experience that they were not manufactured in the State of Hawaii. Because the ammunition and ammunition components were manufactured outside the State of Hawaii, it must have been previously shipped or transported in interstate or foreign commerce.

13. According to a review of State of Hawaii court records, MYERS has the following felony convictions: (i) Theft in the 2<sup>nd</sup> degree (1994) and (ii) Burglary in the 2nd degree (1994).

14. After being advised of his Constitutional Rights, MYERS waived those rights and made the following statements. MYERS acknowledged that he is a convicted felon and served 2 ½ years for burglary. MYERS admitted that he discharged his weapon. MYERS stated that the firearm is an 80% polymer gun and that he purchased the parts for online. MYERS also related he had had approximately 500 rounds of ammunition in his residence.

## CONCLUSION

15. Based on the foregoing facts, I respectfully submit that probable cause exists to believe that DAVID MYERS, the defendant, committed the aforementioned offense.

Respectfully submitted,

  
Terence Horenburg  
Special Agent, ATF

Sworn to under oath before me telephonically,  
and attestation acknowledged pursuant to  
Federal Rule of Criminal Procedure 4.1(b)(2)  
on June 5, 2020.



  
Wes Reber Porter  
United States Magistrate Judge